Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

Sekine generally relates to an information processing system having a function. See abstract. In particular, FIG. 1 illustrates the information processing system including processors 10 and 20 for performing an arithmetic processing, and an operation switching control unit 30 for switching operations of the processors 10 and 20. See column 5, lines 62-68. The detection of fault in an external bus 31, or in an external bus control unit 14 or 24 of a standby processor is performed by sending a predetermined fault detective data from the operational processor to the standby processor. See column 6, lines 28-36. The fault detective data is a single or a plurality of data determined beforehand. The data has the minimum content necessary for the detection of the fault, which is arbitrarily determined. However, nothing teaches or suggests in Sekine a comparator as recited in independent claims 1, 5 and 7 "outputting an abnormality detection signal . . . when the time measured by said timer counter surpasses a threshold value."

Furthermore, the processors 10 and 20 of Sekine fail to teach or suggest measuring "a comparator outputting an abnormality detection signal indicating an abnormality in said communication bus when the time measured by said timer counter surpasses a threshold value," as recited in independent claims 1, 5, and 7. Further, Sekine is silent as to providing "a register cumulatively adding the time measured by at least one of said at least two timer counters, the register being initialized at predetermined intervals," as recited in independent claim 5. Rather, Sekine limits its scope by indicating that the main control unit 21 or 11 of the standby processor regularly reads out the fault detective data written in the data storing unit 23 or 13 of the standby processor, so as to judge the correctness of the transfer. There is no teaching or suggestion in Sekine as to providing a threshold value and determining abnormality based on the threshold value as in the present invention.

Furthermore, Sekine describes a bus monitoring performed by a CPU, and does not describe a continual bus monitoring without posing a load on a CPU as in the present invention. In the present invention, the bus monitoring may be performed by a hardware structure set forth as a timer counter and a comparator, which continually monitor a bus to reduce a load of the CPU and increase an accuracy of abnormality detection, for instance.

In addition, it was further pointed out that, the outstanding rejection of independent claims 1, 5, and 7 fails to set forth a prima facie obviousness case, because there is no

evidenced motivation why one skilled in the art would have modified Sekine to include "both of these components [claimed features of independent claims 1, 5, and 7] in order to perform various tasks," as set forth in the Office Action. It is improper to merely indicate that a feature is inherent. There **must** be supporting rationale and discussion laying out the case for such a conclusion.

In particular, it is improper to merely deem something inherent or obvious without any teaching/suggestion, or the taking of Judicial Notice. As applied to the determination of patentability when the issue is obviousness, "it is fundamental that rejections under 35 U.S.C. §103 must be based on **evidence** comprehended by the language of that section." See In re Lee, 61 USPQ2d 1430 (Fed. Cir. 2002), (citing In re Grasselli, 713 F.2d 731, 739, 218 USPQ 769, 775(Fed. Cir. 1983)) (Emphasis added). If the U.S. Patent and Trademark Office wishes to take Judicial Notice that the proposed structural and functional modification is notoriously well known, it is respectfully requested that supporting evidence be provided. **The Federal Circuit has cautioned that an Examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed**. In re Rouffet, 47 USPQ2d 1453, 1458 (Fed. Cir. 1998). (Emphasis added)

Applicants respectfully assert that no such showing has been made in the present Office Action. It is submitted that the reason why no such showing was made is because the prior art of record individually or combined, fail to teach, suggest, or otherwise provide the motivation needed to make such a modification. "To support the conclusion that the claimed combination is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed combination. It is to be noted that simplicity and hindsight are not proper criteria for resolving the issue of obviousness." Ex Parte Clapp, 227 USPQ 972, 973 (B.P.A.I. 1985).

Accordingly, Sekine fails to teach or suggest all the claimed features of independent claims 1, 5, and 7. It is respectfully requested that independent claims 1, 5, and 7 and related dependent claims be allowed.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further

outstanding objections or rejections, the application is submitted as being in condition for allowance, which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: November 18, 2003

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